



Sen. Pamela J. Althoff

**Filed: 2/22/2018**

10000SB0950sam001

LRB100 04372 RJF 35833 a

1 AMENDMENT TO SENATE BILL 950

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 950 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Central Management Services  
5 Law of the Civil Administrative Code of Illinois is amended by  
6 changing Section 405-10, and adding Section 405-294 as follows:

7 (20 ILCS 405/405-10) (was 20 ILCS 405/35.3)

8 Sec. 405-10. Director's duties; State policy. It shall be  
9 the duty of the Director and the policy of the State of  
10 Illinois to do the following:

11 (1) Place financial responsibility on State agencies  
12 (as defined in subsection (b) of Section 405-5) and hold  
13 them accountable for the proper discharge of this  
14 responsibility.

15 (2) Require professional, accurate, and current  
16 accounting with the State agencies (as defined in

1 subsection (b) of Section 405-5).

2 (3) Decentralize fiscal, procedural, and  
3 administrative operations to expedite the business of the  
4 State and to avoid expense, unwieldiness, inefficiency,  
5 and unnecessary duplication where decentralization is  
6 consistent with proper fiscal management.

7 (4) Manage or delegate the management of the  
8 procurement, retention, installation, maintenance, and  
9 operation of all electronic data processing equipment used  
10 by State agencies as defined in Section 405-20, so as to  
11 achieve maximum economy consistent with development of  
12 adequate and timely information in a form suitable for  
13 management analysis, in a manner that provides for adequate  
14 security protection and back-up facilities for that  
15 equipment, the establishment of bonding requirements, and  
16 a code of conduct for all electronic data processing  
17 personnel to ensure the privacy of electronic data  
18 processing information as provided by law.

19 (5) Manage or delegate the management of the strategic  
20 sourcing of any and all supplies and non-construction  
21 related services used by State agencies in accordance with  
22 Section 405-294. This duty shall not limit the authority of  
23 a chief procurement officer established under the Illinois  
24 Procurement Code. For the purposes of this paragraph (5)  
25 and Section 405-294, "State agency" means each State  
26 agency, department, board, and commission directly

1           responsible to the Governor.

2           (Source: P.A. 91-239, eff. 1-1-00.)

3           (20 ILCS 405/405-294 new)

4           Sec. 405-294. Strategic sourcing. To manage or delegate the  
5 management of the strategic sourcing of any and all supplies  
6 and non-construction related services used by State agencies to  
7 ensure that State agencies maximize the value of public funds  
8 spent on supplies and non-construction related services.  
9 Nothing in this Section shall be construed to limit a State  
10 agency's authority to lead a procurement when required to do so  
11 by law. For the purposes of this Section, "State agency" shall  
12 have the same meaning as defined in paragraph (5) of Section  
13 405-10.

14           Section 10. The Illinois Procurement Code is amended by  
15 changing Section 25-45 as follows:

16           (30 ILCS 500/25-45)

17           Sec. 25-45. Executive agency energy conservation and  
18 saving measures ~~Energy conservation program.~~

19           (a) Definitions. As used in this Section:

20           "Board" means the Capital Development Board or its  
21 successors.

22           "Contracting authority" means the Department, the Board,  
23 or other such agencies as may be delegated to execute certain

1 of its statutory procurement functions through  
2 intergovernmental agreements specifically developed for the  
3 purpose of securing energy conservation services.

4 "Department" means the Department of Central Management  
5 Services acting in its capacity as the statutory owner and  
6 manager of all properties owned and operated by the State of  
7 Illinois on behalf of agencies, boards, and commissions  
8 functioning under the executive authority of the Governor.

9 "Energy conservation measure" means any improvement,  
10 repair, alteration, or betterment of any executive agency  
11 facility or any equipment, fixture, or furnishing to be added  
12 to or used in an executive agency facility, that is designed to  
13 reduce energy consumption or operating costs, and may include,  
14 but is not limited to, one or more of the following:

15 (1) Insulation of the building structure or systems  
16 within the building.

17 (2) Storm windows or doors, caulking or weather  
18 stripping, multiglazed windows or doors, heat-absorbing or  
19 heat-reflective glazed and coated window or door systems,  
20 additional glazing, reductions in glass area, or other  
21 window and door system modifications that reduce energy  
22 consumption.

23 (3) Automated or computerized energy control systems.

24 (4) Heating, ventilating, or air conditioning system,  
25 modifications, or replacements.

26 (5) Replacement or modification of lighting fixtures

1       to increase the energy efficiency of the lighting system  
2       without increasing the overall illumination of a building,  
3       unless an increase in illumination is necessary to conform  
4       to the applicable State or local building code for the  
5       lighting system after the proposed modifications are made.

6           (6) Energy recovery systems.

7           (7) Energy conservation measures that provide  
8       long-term operating cost reductions.

9       "Executive agency facility" means a building owned and  
10      operated by the State of Illinois through an agency, board, or  
11      commission statutorily functioning under the executive  
12      authority of the Governor or other constitutional officers.

13      "Guaranteed energy savings contract" means a contract for:  
14      (i) the implementation of an energy audit, data collection, and  
15      other related analyses preliminary to the undertaking of energy  
16      conservation measures; (ii) the evaluation and recommendation  
17      of energy conservation measures; (iii) the implementation of  
18      one or more energy conservation measures; and (iv) the  
19      implementation of project monitoring and data collection to  
20      verify post installation energy consumption and energy related  
21      operating costs. The contract shall provide that all payments,  
22      except obligations on termination of the contract before its  
23      expiration, are to be made over time and that the savings are  
24      guaranteed to the extent necessary to pay the costs of the  
25      energy conservation measures. "Energy savings" may include  
26      energy reduction and offsetting sources of renewable energy

1 funds, including renewable energy credits and carbon credits.

2 "Qualified provider" means a person whose employees are  
3 experienced and trained in the design, implementation, or  
4 installation of energy conservation measures. The minimum  
5 training required for any person or employee under this Section  
6 shall be the satisfactory completion of at least 40 hours of  
7 course instruction dealing with energy conservation measures.  
8 A qualified provider to whom the contract is awarded shall give  
9 a sufficient bond to the executive agency or for its faithful  
10 performance.

11 (b) Before entering into a guaranteed energy savings  
12 contract, the contracting authority shall issue a request for  
13 proposals in accordance with Article 30 of this Code requesting  
14 competitive sealed offers for innovative solutions and  
15 conservation measures. A request for proposals shall be  
16 published in the volume of the Illinois Procurement Bulletin  
17 under the authority of the chief procurement officer for the  
18 Capital Development Board for at least 30 days before offers  
19 are due. The request for proposals shall, at a minimum, include  
20 all of the following:

21 (1) The name and address of the executive agency.

22 (2) The name, address, title, and phone number of an  
23 executive agency contact person who will respond to  
24 questions regarding the request for proposals.

25 (3) Notice indicating that the contracting authority  
26 is requesting qualified providers to propose energy

1       conservation measures through a guaranteed energy savings  
2       contract.

3       (4) The date, time, and place where offers must be  
4       received.

5       (5) The evaluation criteria for evaluating offers.

6       (6) Any other stipulations and clarifications the  
7       contracting authority or executive agency facility may  
8       require.

9       (7) A written disclosure that identifies any energy  
10       services contractor that participated in the preparation  
11       of specifications. If no energy services contractor  
12       participated in the preparation of specifications, then  
13       the request for proposals must include a disclosure that no  
14       energy services contractor participated in the preparation  
15       of the specifications.

16       (c) The evaluation of offers shall analyze the estimates of  
17       all costs of installations, modifications, or remodeling,  
18       including, but not limited to, costs of a pre-installation  
19       energy audit or analysis, design, engineering, installation,  
20       maintenance, repairs, debt service, conversions to a different  
21       energy or fuel source, or post-installation project  
22       monitoring, data collection, and reporting. The evaluation  
23       shall include a detailed analysis of whether either the energy  
24       consumed or the operating costs, or both, will be reduced. If a  
25       licensed architect or registered professional engineer on the  
26       executive agency's or contracting authority's staff is

1 unavailable to serve as an evaluator, then the evaluation shall  
2 include a registered professional engineer or architect, who is  
3 retained by the executive agency or contracting authority. A  
4 licensed architect or registered professional engineer  
5 participating on an evaluation team under this Section must not  
6 have any financial or contractual relationship with an offeror  
7 or other source that would constitute a conflict of interest.  
8 The contracting authority or executive agency facility may pay  
9 a reasonable fee for evaluation of the proposal or include the  
10 fee as part of the payments made under subsection (e) of this  
11 Section. Any contracting agency shall coordinate with the Board  
12 to ensure that there are no conflicts with the proposals and  
13 current or upcoming Board projects.

14 (d) After evaluating the proposals, a contracting  
15 authority for an executive agency facility may enter into a  
16 guaranteed energy savings contract with the best-qualified  
17 offeror if the contracting authority finds that the amount it  
18 would spend on the energy conservation measures recommended in  
19 the proposal would not exceed the amount to be saved in either  
20 energy or operational costs, or both, within a 20-year period  
21 from the date of installation if the recommendations in the  
22 proposal are followed. Contracts let or awarded must be  
23 published in the volume of the Illinois Procurement Bulletin  
24 under the authority of the chief procurement officer for the  
25 Capital Development Board or as otherwise prescribed by  
26 agreement between the Capital Development Board and the



1 contracting authority.

2 (e) The guaranteed energy savings contract shall include  
3 the contractor's guarantee that either the energy or  
4 operational cost savings, or both, will meet or exceed within  
5 20 years the costs of the energy conservation measures. The  
6 contractor shall reimburse the State for any shortfall of  
7 guaranteed energy savings projected in the contract. A  
8 contractor shall provide a sufficient bond, as determined by  
9 the State, to the contracting authority for the installation  
10 and the faithful performance of all the measures included in  
11 the contract. The guaranteed energy savings contract may  
12 provide for payments over a period of time, not to exceed 20  
13 years from the date of final installation of the energy  
14 conservation measures.

15 (f) The contracting authority may enter into an installment  
16 payment contract or lease purchase agreement with a contractor  
17 for services solicited under this Section or with a third  
18 party, as authorized by law, for the funding or financing of  
19 the purchase and installation of energy conservation measures.  
20 The State of Illinois may issue certificates evidencing the  
21 indebtedness incurred pursuant to the contracts. Each contract  
22 or agreement entered into by a contracting authority pursuant  
23 to this Section shall be authorized by official action of the  
24 contracting authority. The authority granted in this Section is  
25 in addition to any other authority granted by law. If an energy  
26 audit is performed by an energy services contractor for an

1 executive agency facility within the 3 years immediately  
2 preceding the request for proposals, then the contracting  
3 authority must publish as a reference document in the  
4 solicitation for energy conservation measures the following:

5 (1) an executive summary of the energy audit, provided  
6 that the contracting authority and executive agency  
7 facility may exclude any proprietary or trademarked  
8 information or practices; or

9 (2) the energy audit, provided that the contracting  
10 authority and executive agency facility may redact any  
11 proprietary or trademarked information or practices.

12 An executive agency facility or contracting authority may  
13 not withhold the disclosure of information related to: (i) the  
14 executive agency facility's consumption of energy, (ii) the  
15 physical condition of the executive agency's facilities, and  
16 (iii) any limitations prescribed by the executive agency  
17 facility or contracting authority.

18 (g) Guaranteed energy savings contracts may extend beyond  
19 the fiscal year in which they become effective. The agency  
20 responsible for payments under such a contract shall include in  
21 its annual budget and appropriations measures for each  
22 subsequent fiscal year any amounts payable under guaranteed  
23 energy savings contracts during that fiscal year.

24 (h) In cooperation with the contracting authority, the  
25 executive agency facility shall document the operational and  
26 energy cost savings specified in the guaranteed energy savings

1 contract and designate and appropriate that amount for an  
2 annual payment of the contract. If the annual energy savings  
3 are less than projected under the guaranteed energy savings  
4 contract the contractor shall pay the difference as provided in  
5 subsection (e) of this Section.

6 (i) An executive agency facility or contracting authority  
7 may use funds designated for operating or capital expenditures  
8 for any guaranteed energy savings contract including purchases  
9 using installment payment contracts or lease purchase  
10 agreements. An executive agency facility or contracting  
11 authority that enters into such a contract or agreement may  
12 covenant in the contract or agreement that payments made under  
13 the contract or agreement shall be payable from the first funds  
14 legally available in each fiscal year.

15 (j) Operating and maintenance funds and other amounts  
16 appropriated for distribution to or reimbursement of an  
17 executive agency facility or contracting authority shall not be  
18 reduced as a result of energy savings realized from a  
19 guaranteed energy savings contract or a lease purchase  
20 agreement for the purchase and installation of energy  
21 conservation measures.

22 (k) Other State laws and related administrative  
23 requirements apply to this Section, including, but not limited  
24 to, the following laws and related administrative  
25 requirements: the Illinois Human Rights Act, the Prevailing  
26 Wage Act, the Public Construction Bond Act, the Employment of

1 Illinois Workers on Public Works Act, the Freedom of  
2 Information Act, the Open Meetings Act, the Illinois  
3 Architecture Practice Act of 1989, the Professional  
4 Engineering Practice Act of 1989, the Structural Engineering  
5 Practice Act of 1989, the Local Government Professional  
6 Services Selection Act, and the Contractor Unified License and  
7 Permit Bond Act.

8 (1) In order to protect the integrity of historic  
9 buildings, no provision of this Section shall be interpreted to  
10 require the implementation of energy conservation measures  
11 that conflict with respect to any property eligible for,  
12 nominated to, or entered on the National Register of Historic  
13 Places, pursuant to the federal National Historic Preservation  
14 Act of 1966, or the Illinois Register of Historic Places,  
15 pursuant to the Illinois Historic Preservation Act.

16 ~~State purchasing officers may enter into energy conservation~~  
17 ~~program contracts that provide for utility cost savings. The~~  
18 ~~chief procurement officer shall promulgate and adopt rules for~~  
19 ~~the implementation of this Section.~~

20 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)".